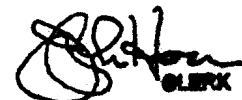


UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA

FILED

APR 15 2008


CLERK

CENTRAL DIVISION

UNITED STATES OF AMERICA,

CR. 07-30063

Plaintiff,

-vs-

REPORT AND RECOMMENDATION
ON DEFENDANT'S CHANGE OF PLEA
AND ORDER OF DETENTION

HOWARD D. KILLEANEY,

Defendant.

This matter came on before the Court for a change of plea hearing on Tuesday, April 15, 2008. Defendant, Howard D. Killeaney, appeared in person and by his counsel, Edward G. Albright, while Plaintiff, United States of America ("Government") appeared through Eric D. Kelderman, an Assistant United States Attorney.

Defendant consented in open court to the change of plea before the Court and his consent was knowingly and voluntarily made. The Government also consented to the Court taking Defendant's plea. The Defendant also consented in open court (by Waiver of Indictment) to proceeding by Information instead of by Indictment.

Defendant has reached a plea agreement with the Government wherein he intends to plead guilty to the charge as contained in the Information. Defendant is charged in the Information with Assault Resulting in Substantial Bodily Injury in violation of 18 U.S.C. §113(a)(7). At the hearing, Defendant was advised of the nature of the charge to which he would plead guilty and the maximum penalty applicable, specifically: Five (5) years

custody; \$250,000 fine, or both; three (3) years supervised release; two (2) additional years imprisonment if supervised release is revoked; \$100 assessment; and restitution .

Upon questioning Defendant personally in open court, it is the finding of the Court that Defendant is fully competent and capable of entering an informed plea, that he is aware of the nature of the charged offense and the consequences of the plea, and that his plea of guilty to the offense contained in the Information is a knowing and voluntary plea supported by an independent basis in fact containing each of the essential elements of the offense. It is, therefore, the Court's recommendation that the guilty plea to the charge as contained in the Information be accepted and that Defendant be adjudged guilty of that offense.

It is further ORDERED that Defendant shall remain detained pending sentencing or until further order of a judicial officer of this District as previously ordered.

NOTICE TO PARTIES

The parties have ten (10) days after service of this Report and Recommendation containto file written objections pursuant to 28 U.S.C. §636(b)(1), unless an extension of time for good cause is obtained. Failure to file timely objections will result in the waiver of the right to appeal questions of fact. Objections must be timely and specific in order to require de novo review by the District Court.

Dated this 15th day of April, 2008, at Pierre, South Dakota.

BY THE COURT:



**MARK A. MORENO
UNITED STATES MAGISTRATE JUDGE**

**ATTEST:
JOSEPH HAAS, CLERK**

BY:

(SEAL)



Deputy